IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 29203 of 2007(B)

PETITIONER:

M/S.SHARON CHEMICALS & SOLVENTS
MATTOOR, KALADY, ERNAKULAM DISTRICT,
REPRESENTED BY IT'S MANAGING PARTNER,
V.G.JOSHY.

BY ADV. SRI.BOBBY JOHN
SRI.TOMSON T.EMMANUEL

RESPONDENT:

THE COMMERCIAL TAX OFFICER,
ANGAMALY.

BY G.P.SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P.(C).NO.29203 OF 2007-B

Dated this the 3rd day October, 2007.

JUDGMENT

The challenge in this writ petition is against Exts.P10 and P11. Both these orders of assessments are in relation to the assessment year 2001-02. Ext.P10 relates to tax under the KGST Act and Ext.P11 relates to tax under the CST Act. In relation to Ext.P10, contention raised is that, denying an adjournment requested by the petitioner, assessment has been completed. In support of that, the petitioner relied on Exts.P9 and P10 application for adjournment and medical certificate respectively. It is seen from Ext.P10 order itself that request of the petitioner for adjournment was considered and he was given six weeks' time to file reply. Even thereafter since they did not file the reply, the assessment was completed. Therefore, there is no question of violation of principles of natural justice in so far as Ext.P10 is concerned. Hence, challenge as against Ext.P10 will stand repelled.

2. In so far as Ext.P11 is concerned, it is seen that in the notice issued, the balance CST due was indicated to be Rs.63,764/=. As

against this, the tax assessed under the CST Act is Rs.3,82,536/= . Therefore, the petitioner did not have an opportunity to offer a proper explanation regarding the tax amount, that is found to be due. To that extent, there is denial of reasonable opportunity and violation of the principles of natural justice. This position supported by the decision reported in **Engine Valves Limited v. Union of India (Mad)** (1990 STC 84).

3. Therefore, Ext.P11 will stand quashed for violation of principles of natural justice with liberty to the respondent to initiate fresh proceedings by issuing proper notice to the petitioner.

The writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

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